

The Senate Economic Development Committee offered the following substitute to HB 1323:

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,  
2 so as to provide for a comprehensive program for the creation of infrastructure development  
3 districts; to provide for a short title; to provide for definitions; to provide for the powers,  
4 duties, and authority of infrastructure development districts; to provide for a board to  
5 administer infrastructure development districts; to provide for appointment or election of  
6 members of an infrastructure development district board; to provide for levying taxes, fees,  
7 and assessments; to provide for the debt of infrastructure development districts; to provide  
8 for bonds, notes, and other obligations of infrastructure development districts; to provide for  
9 the form of bonds; to provide for consolidation, termination, or dissolution of infrastructure  
10 development districts; to provide for notice of the creation of the district; to amend Chapter 5  
11 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to  
12 change certain provisions regarding permits for discharging pollutants into waters; to change  
13 certain provisions regarding permits for surface water withdrawal, diversion, or  
14 impoundment; to change certain provisions regarding permits for withdrawing, obtaining,  
15 or using ground water; to provide for related matters; to provide a contingent effective date;  
16 to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and  
17 for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
21 by adding a new chapter at the end thereof, to be designated as Chapter 93, to read as  
22 follows:

## "CHAPTER 93

36-93-1.

This chapter shall be known and may be cited as the 'Georgia Smart Infrastructure Growth Act of 2006.'

36-93-2.

As used in this chapter, the term:

(1) 'Additional projects' means district projects beyond those identified in the petition for creation of the district.

(2) 'Appropriate local government' means:

(A) Each county governing authority, if the district is located wholly in the unincorporated part of one or more counties;

(B) Each municipal governing authority, if the district is located wholly within one or more municipalities; or

(C) Each county governing authority and each municipal governing authority, if the district is located partially in the unincorporated area of one or more counties and partially within one or more municipalities.

For the purposes of this chapter, the term 'appropriate local government' may be read as the singular or plural.

(3) 'Assessable improvements' means, without limitation, any and all public improvements, infrastructure, and community facilities that a district is empowered to provide in accordance with this chapter.

(4) 'Board' means the governing board of a district or, if the board has been abolished, the board, body, or commission succeeding to the principal functions of the board.

(5) 'Bond' means any bonds of a district, which are authorized to be issued under the Constitution and laws of this state, but shall not include notes or other obligations of the district.

(6) 'Cost,' when used with reference to any project, includes, but is not limited to:

(A) The expense of determining the feasibility or practicability of acquisition, construction, or reconstruction;

(B) The cost of surveys, estimates, plans, and specifications;

(C) The cost of improvements and of insuring such improvements;

(D) Engineering, fiscal assessment, and legal expenses and charges;

(E) The cost of all labor, materials, machinery, and equipment;

(F) The cost of all lands, properties, rights, easements, and franchises acquired;

1 (G) Financing charges;

2 (H) The creation of operation and maintenance reserve funds, debt service reserve  
3 funds, repair and replacement reserve funds, and debt service funds;

4 (I) Working capital;

5 (J) Interest charges incurred or estimated to be incurred on money borrowed prior to  
6 and during construction and acquisition and for such reasonable period of time after  
7 completion of construction or acquisition as the board may determine;

8 (K) The cost of issuance of bonds pursuant to this chapter, including advertisements,  
9 printing, and credit enhancement and related interest rate swaps, hedges, or similar  
10 items, whether incurred in connection with the issuance of or after the issuance of  
11 bonds;

12 (L) The cost of any election held pursuant to this chapter;

13 (M) The discount, if any, on the sale or exchange of bonds;

14 (N) Administrative expenses;

15 (O) Such other expenses as may be necessary or incidental to the acquisition,  
16 construction, or reconstruction of any project or to the financing of any project, or to  
17 the development of any lands within a district; and

18 (P) Payments, contributions, and dedications required as a condition to receive any  
19 government approval or permit necessary to accomplish any district purpose or the  
20 exercise of any district power.

21 (7) 'Deed restrictions' means those covenants, conditions, and restrictions contained in  
22 any applicable deeds, agreements, or declarations of covenants and restrictions that  
23 govern the use and operation of real property within the district and, for such covenants,  
24 conditions, and restrictions, there is no homeowners' association or property owners'  
25 association having respective enforcement powers.

26 (8) 'District' means an infrastructure development district.

27 (9) 'District roads' means highways, streets, roads, alleys, sidewalks, bridges, and  
28 thoroughfares of all kinds and descriptions within a district, including any landscaping  
29 and storm drains associated therewith.

30 (10) 'Government member' means a member of the board named by a local government.

31 (11) 'Infrastructure development district' means a geographic area of development  
32 created pursuant to this chapter and limited to the performance of those specialized  
33 functions authorized by this chapter; the governing body of which is a board created and  
34 authorized to function specifically as prescribed in this chapter for the delivery of projects  
35 and the formation, powers, operation, duration, accountability, requirements for  
36 disclosure, and termination of which are as required by this chapter.

1 (12) 'Initial costs' means costs related to district projects identified in the petition for  
2 creation of the district.

3 (13) 'Landowner' means any entity or person shown as a taxpayer for one or more parcels  
4 of real estate in a district as reflected on the most recent ad valorem tax records in the  
5 county or counties that have jurisdiction over the property included in the district as  
6 certified by the tax commissioner of the county or counties.

7 (14) 'Open space' means dedicated lands and waters, or interests therein, consistent with  
8 one or more of the following uses:

9 (A) Protection of agricultural or forestry lands;

10 (B) Protection of areas that serve as natural habitat for native plant and animal species;

11 (C) Provision of recreation in the form of outdoor activities, including but not limited  
12 to biking, boating, camping, fishing, golf, hiking, hunting, jogging, running, or  
13 recreational fields;

14 (D) Scenic protection;

15 (E) Water quality protection for rivers, streams, and lakes; or

16 (F) Wetlands protection.

17 (15) 'Petitioner member' means a member of the board named by the petitioner.

18 (16) 'Petitioner' means an entity, person, or group of persons who intends to create a  
19 district.

20 (17) 'Project' means any development, improvement, property, utility, facility, works,  
21 enterprise, or service existing on January 1, 2007, or thereafter undertaken or established  
22 under this chapter. A 'project' shall not include an 'electric utility' as defined in Code  
23 Section 46-1-1.

24 (18) 'Qualified electors' means landowners within the district who, at the time the district  
25 was created, were not shown as a landowner for one or more parcels of real estate within  
26 the district on the ad valorem tax records of the county or counties that have jurisdiction  
27 over the property included in the district.

28 (19) 'Revenues' means the proceeds of taxes, assessments, rates, fees, rentals, or other  
29 charges prescribed, fixed, established, and collected by the board for the projects  
30 furnished by the district.

31 (20) 'Service delivery provider' means a local government or local government authority  
32 that provides services to a designated area pursuant to Article 2 of Chapter 70 of this title.

33 (21) 'Sewer system' means any plant, system, facility, or property serving a district, and  
34 any additions, extensions, and improvements constructed or acquired as part of the  
35 system, useful or necessary or having the present capacity for future use in connection  
36 with the collection, treatment, purification, or disposal of sewage, including, without

1 limitation, industrial wastes resulting from any process of industry, manufacture, trade,  
2 or business or from the development of any natural resource. Without limiting the  
3 generality of the foregoing, the term 'sewer system' includes treatment plants, pumping  
4 stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines,  
5 mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and  
6 other devices for the reception and collection of sewage from premises connected to the  
7 devices; and all real and personal property and any interest in all real and personal  
8 property, rights, easements, and franchises of any nature relating to any such system and  
9 necessary or convenient for the operation of the system.

10 (22) 'Short-term borrowing' means a debt obligation of the district in the form of loan,  
11 note, warrant, or other evidence with a maturity not to exceed one year.

12 (23) 'Water management and control facilities' means any lakes, canals, ditches,  
13 reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works,  
14 structures, or facilities for the conservation, control, development, utilization, and  
15 disposal of water, and any purposes appurtenant, necessary, or incidental to the facility  
16 serving a district. The term 'water management and control facilities' includes all real and  
17 personal property and any interest in the property, rights, easements, and franchises of any  
18 nature relating to any such water management and control facilities necessary or  
19 convenient for the acquisition, construction, reconstruction, operation, or maintenance  
20 of the water management and control facilities.

21 (24) 'Water system' means a system for the provision of piped water for human  
22 consumption within a district. Such term includes, but is not limited to, any collection,  
23 treatment, storage, and distribution facilities under the control of the operator of a water  
24 system and used primarily in connection with a water system and any collection or  
25 pretreatment storage facilities not under such control which are used primarily in  
26 connection with a water system. The term 'water system' includes all real and personal  
27 property and any interest in the property, rights, easements, and franchises of any nature  
28 relating to any such water system necessary or convenient for the acquisition,  
29 construction, reconstruction, operation, or maintenance of the water system.

30  
31 36-93-3.

32 (a)(1) An appropriate local government may exercise its authority under this chapter after  
33 holding a public hearing on this chapter and approving a resolution or ordinance that  
34 authorizes the local government to create and regulate districts as provided under this  
35 chapter.

(2) In addition to the requirement of paragraph (1) of this subsection, an appropriate local government may in its discretion condition the exercise of its authority under this chapter upon the approval by a majority of the voters residing in the county in an election called by such appropriate governing authority for such purpose. Such election shall be called and conducted on a date and in the manner authorized by Code Section 21-2-540. The question on the ballot shall be as prescribed by the county election superintendent. The question shall be submitted to the voters of the entire county.

(b) A petitioner who proposes to create a district within the jurisdiction of an appropriate local government that has authorized the creation and regulation of districts under this chapter shall file with the appropriate local government a petition requesting creation of a district. The petition shall be signed by all holders of title of the taxable land within the proposed district, as determined by the most recent approved county ad valorem tax digest or documentation demonstrating that the petitioner has control, including, but not limited to, by deed, trust agreement, or contract, of the taxable land.

(c) The petition shall:

(1) Describe the boundaries of the proposed district by metes and bounds or by lot and block number if there is a recorded map or plat and survey of the area;

(2) Specifically identify the projects to be undertaken according to the petitioner's master plan for the district, the necessity for the projects, the cost of the projects, and the anticipated need for tax-exempt bonds as then reasonably estimated by the petitioner. These estimates shall be submitted in good faith but shall not be binding and may be subject to change;

(3) Include a name of the proposed district which shall be generally descriptive of the locale of the proposed district followed by the words 'Infrastructure Development District,' or if a district is located within one county, it may be designated '\_\_\_\_ County Infrastructure Development District No. \_\_\_\_\_'; provided, however, that the proposed district shall not have the same name as any other district in the same county;

(4) Include a designation of four persons to be the initial petitioner members of the board who shall serve in that office until replaced by elected members as provided in this chapter;

(5) Include a map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls, if any;

(6) Based upon available data, include the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services; these estimates shall be submitted in good faith but shall not be binding and may be subject to change;

(7) Include a designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district as shown on the appropriate local government's comprehensive land use plan, if one has been adopted; and

(8) Include a master plan.

36-93-4.

(a) The petitioner shall submit a copy of the petition to the governing authority of any local government, the boundaries of which are contiguous with, or contain all or a portion of, the land within the external boundaries of the proposed district.

(b) A public hearing on the petition shall be conducted by the appropriate local government no sooner than 60 days nor later than 90 days following the submission of a petition unless reasonably delayed for reasons related to the appropriate local government's completing all necessary federal, state, or regional reviews, including, but not limited to, developments of regional impact reviews pursuant to Code Section 50-32-14, or due to circumstances beyond the control of the appropriate local government. The hearing shall include oral and written comments on the petition pertinent to the proposed district, including the factors specified in subsection (c) of this Code section. The hearing shall begin after 6:00 P.M. but no later than 7:00 P.M. at an accessible location in the jurisdiction of each appropriate local government. The petitioner shall cause a notice of the hearing to be published in the legal organ of the county or municipality wherein the district's land lies at least once a week for the four successive weeks immediately prior to the hearing. Such notice shall not be placed in the area reserved for legal advertisements. The notice shall give the time and place for the hearing, a description of the area to be included in the district, and any other relevant information which the appropriate local government may require. All affected local governments and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

(c) The appropriate local government shall consider the entire record of the applicable hearing, the transcript of the hearing, and applicable factors and shall make a determination to grant or deny the petition for the establishment of a district. Such applicable factors shall include, but are not limited to:

(1) Whether the statements contained within the petition have been found to be true and correct;

(2) Whether the area of land within the proposed district is of sufficient size, sufficiently compact, and sufficiently contiguous to be developed as one functional interrelated community;

(3) Whether creation of the district is a reasonable alternative for delivering community infrastructure and facilities to the area that will be served by the district;

(4) Whether the community infrastructure and facilities of the district will be compatible with the capacity and uses of existing local and regional community services and facilities, provided that, as a condition for approval of creation, the district must plan for sewer service to be made available to all buildings within the district;

(5) Whether the proposed district projects are consistent or inconsistent with any applicable element or portion of the appropriate local government's comprehensive plan;

(6) Whether the district is compatible with the appropriate local government in general and will supplement rather than be a detriment to the general population; and

(7) Whether the district will result in an increase in taxes paid by existing taxpayers in the county or municipality residing outside the district.

(d) The appropriate local government which has jurisdiction over the land to be included in the district shall not adopt any resolution, ordinance, or contract which would expand any provision of this chapter.

(e) The petitioner shall arrange to provide a copy of the petition to create the district, any resolution or ordinance establishing a district, and the district's disclosures pursuant to subsection (b) of Code Section 36-93-23 to the Department of Community Affairs.

(f) A resolution or ordinance establishing a district shall:

(1) Describe the external boundaries of the district;

(2) Name the persons designated to be the initial members of the board as described in Code Section 36-93-5;

(3) Name the district; and

(4) Include other information required or authorized by this chapter.

(g)(1) A district created pursuant to this chapter is not a general purpose local government and specifically shall not be included in the term 'local government' as that term is defined in paragraph (5.2) of Code Section 36-70-2.

(2) The powers granted to a district pursuant to paragraphs (11) and (12) of Code Section 36-93-8 may be exercised by the board upon execution of an agreement between the board and the appropriate local government. Such agreements shall include reasonable terms, including, but not limited to, describing the services and facilities to be provided within the district and the source of funding for such services and facilities and may be amended at any time by mutual consent of the parties to the agreement.



1 36-93-5.

2 (a) The powers granted to a district pursuant to this chapter shall be exercised by the board.  
3 Except as provided in this Code section, the board shall consist of at least five members,  
4 and each member shall hold office for a term of four years and until a successor is  
5 appointed or elected and qualified. All members of the board must be at least 18 years old,  
6 a resident of this state, and a citizen of the United States. The provisions of Code Section  
7 45-10-3 shall apply to all members of the board who are elected pursuant to this Code  
8 section and their successors. As provided in this Code section, board members may also  
9 be required to be residents of the district.

10 (b) Unless expanded pursuant to this Code section, the initial board named under the  
11 resolution or ordinance establishing the district pursuant to Code Section 36-93-4 shall be  
12 comprised of four members named by the petitioner and one member chosen by each  
13 appropriate local government that issues a resolution or ordinance creating the district. In  
14 the event a district is created by a resolution or ordinance by more than one local  
15 government, each appropriate local government may appoint one member to the board and  
16 the petitioner may appoint one additional petitioner member per additional government  
17 member. An initial board member shall serve until the board, in the case of petitioner  
18 members, or the appropriate local government, in the case of government members,  
19 replaces the member or the member is replaced by an election by the qualified electors  
20 pursuant to subsection (c) of this Code section.

21 (c)(1) Members of the board shall stand for election by qualified electors pursuant to the  
22 following schedule, and such elected members of the board shall be qualified electors:

23 (A) The first petitioner member shall stand for election within six months of the sale  
24 to the general public of land representing 30 percent of the geographic area within the  
25 boundaries of the district;

26 (B) The second petitioner member shall stand for election within six months of the sale  
27 to the general public of land representing 50 percent of the geographic area within the  
28 boundaries of the district;

29 (C) The third petitioner member shall stand for election within six months of the sale  
30 to the general public of land representing 60 percent of the geographic area within the  
31 boundaries of the district; and

32 (D) All remaining petitioner members shall stand for election within six months of the  
33 sale to the general public of land representing 70 percent of the geographic area within  
34 the boundaries of the district or within six years after the effective date of the resolution  
35 or ordinance establishing the district, whichever is sooner.

1 (2) The board shall organize district elections which shall be held at a meeting of the  
2 qualified electors of the district. Notice of the meeting and the election of board members  
3 shall be published once a week for two consecutive weeks in the legal organ of the county  
4 or municipality wherein the district's land lies, and the last day of such publication shall  
5 be not fewer than 14 days nor more than 28 days before the meeting; provided, however,  
6 that such notice shall not be published in the area reserved for legal advertisements. The  
7 chairperson of the board shall conduct the meeting. If the chairperson is an elector or  
8 proxy holder for a qualified elector, he or she may nominate candidates and make and  
9 second motions.

10 (3) At a district election, each qualified elector shall be entitled to cast one vote per acre  
11 of land owned by him or her, located within the district, for each member to be elected;  
12 provided, however, that a qualified elector may not cast a vote representing any land  
13 currently used or identified for future use of district facilities, infrastructure, or other  
14 district-specific purposes, including common areas. No qualified elector may cast votes  
15 representing more than 15 percent of the available votes. A qualified elector may vote  
16 in person or by a properly executed written proxy. Each proxy must be signed by one of  
17 the landowners of the property for which the vote is cast and must contain the typed or  
18 printed name of the individual who signed the proxy; the street address, legal description  
19 of the property, or tax parcel identification number; and the number of authorized votes.  
20 If the proxy authorizes more than one vote, each property must be listed and the number  
21 of acres of each property must be included. The signature on a proxy need not be  
22 notarized. A fraction of an acre shall be treated as one acre, entitling the qualified elector  
23 to one vote with respect thereto. Nominees for the board are elected by a majority of  
24 votes cast in accordance with this paragraph.

25 (4) On or before June 1 of each year, the board shall determine the amount of land sold  
26 within the district to the general public and the proportion of that land sold relative to the  
27 overall amount of land within the district boundary for purposes of determining whether  
28 any seats of the board shall be contested by election pursuant to this Code section. Such  
29 determination and nominations for available seats shall be made at a meeting of the board  
30 and shall become part of the official minutes of the district. Such calculation shall not  
31 consider land currently used or identified for future use of district facilities,  
32 infrastructure, or other district-specific purposes.

33 (5) Elections of board members shall be nonpartisan. Board members shall assume their  
34 office immediately upon their election.

35 (d)(1) Members of the board shall hold office for the terms for which they were elected  
36 or appointed and until their successors are chosen and qualified. If, during the term of

office, a vacancy occurs among the petitioner members, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(2) Notwithstanding paragraph (1) of this subsection, a board may not appoint a person to fill a vacancy on the board if the person:

(A) Resigned from the board:

(i) In the two years preceding the vacancy date; or

(ii) On or after the vacancy date but before the vacancy is filled; or

(B) Was defeated in a board election held by the district in the two years preceding the vacancy date.

(e) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(f) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chairperson and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(g) The board shall keep a permanent record book entitled 'Record of Proceedings of (name of district) Infrastructure Development District,' in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and any and all corporate acts. The record book and any other documents shall be open to inspection and governed by the provisions of Article 4 of Chapter 18 of Title 50. The record book shall be kept at a district office.

(h) All meetings of the board shall be open to the public and governed by the provisions of Code Section 50-14-1. The board shall hold at least one annual meeting on the same date every year, such date to be published as part of the resolution or ordinance creating the district. The meeting shall begin no earlier than 6:00 P.M. nor later than 7:00 P.M. and shall address issues related to the district, including, but not limited to, current projects, district finances, and potential future projects. In addition, the board shall make available to any person on an annual basis upon request a report of the names and contact information of the board members, their employers, and their relationships to other members of the board and to any officer or employee of the developer. The requirements for such report shall terminate upon the election of the majority of the board by the qualified electors of the district.

1 36-93-6.

2 (a) The board shall designate a resident of this state as treasurer of the district who shall  
3 have charge of the funds of the district. Such funds shall be disbursed only upon the order,  
4 or pursuant to the resolution, of the board. The board may give the treasurer additional  
5 powers and duties as the board may deem appropriate and may fix his or her compensation.  
6 The board may require the treasurer to give a bond in such amount, on such terms, and with  
7 such sureties as may be deemed satisfactory to the board to secure the performance by the  
8 treasurer of his or her powers and duties. The financial records of the board shall be  
9 audited by an independent certified public accountant at least once a year. The results of  
10 such audit shall be recorded in the district's record book and made available to the public  
11 pursuant to subsection (g) of Code Section 36-93-5.

12 (b) The board is authorized to select as a depository for its funds any commercial bank or  
13 trust company, mutual savings bank, savings and loan association, or building and loan  
14 association existing under the laws of this state or of the United States upon such terms and  
15 conditions as to the payment of interest by such depository upon the funds so deposited as  
16 the board may deem just and reasonable.

17 (c) The treasurer shall not be a current member of the board.

18 36-93-7.

19 (a) A district board shall set its fiscal year.

20 (b) At least 60 days prior to the adoption of the annual budget for the district, the treasurer  
21 shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for  
22 board approval. The proposed budget shall include at the direction of the board an estimate  
23 of all necessary expenditures of the district for the ensuing fiscal year and an estimate of  
24 income of the district from the taxes and assessments provided in this chapter. The board  
25 shall consider the proposed budget item by item and may either approve the budget as  
26 proposed by the treasurer or modify the same in part or in whole. The board shall indicate  
27 its approval of the proposed budget by resolution that shall provide for a hearing on the  
28 proposed budget as approved. Such hearing shall begin no earlier than 6:00 P.M. nor later  
29 than 7:00 P.M. and shall be limited only to consideration of the proposed budget. Notice  
30 of the hearing on the proposed budget shall be published in the legal organ of the county  
31 in which the district is located once a week for two consecutive weeks immediately  
32 preceding the date of the hearing. The notice shall further contain a designation of the date,  
33 time, and place of the public hearing and shall not be placed in the section reserved for  
34 legal advertisements. The board shall make copies of the proposed budget available during  
35 business hours at the district office for no less than two weeks prior to the hearing. At the

1 time and place designated in the notice, the board shall hear all objections to the budget as  
2 proposed and may make such changes as the board deems necessary. At the conclusion of  
3 the budget hearing, the board shall, by resolution, adopt the budget as finally approved by  
4 the board. The budget for the next fiscal year shall be adopted no less than three months  
5 before end of the district's fiscal year.

6 (c) At least 60 days prior to adoption of the annual budget for the district, the board shall  
7 submit to the appropriate local government, for purposes of disclosure and information  
8 only, the proposed annual budget for the ensuing fiscal year and any proposed long-term  
9 financial plan or program of the district for future operations. The appropriate local  
10 government may review the proposed annual budget and any long-term financial plan or  
11 program and may submit written comments to the board for its assistance and information  
12 in adopting its annual budget and long-term financial plan or program. Upon approval of  
13 the final budget, the board shall submit a copy of such budget to the appropriate local  
14 government.

15 36-93-8.

16 The district shall have, and the board may exercise, the following general powers:

17 (1) To sue and be sued in the name of the district; to adopt and use a seal and authorize  
18 the use of a facsimile thereof; and to acquire, by purchase, devise, or otherwise, and to  
19 dispose of real and personal property or any estate therein; however, pursuant to the  
20 provisions of Code Section 36-93-9, the district shall not acquire property through  
21 eminent domain;

22 (2) To make and execute contracts and other instruments necessary or convenient to the  
23 exercise of its powers. All public works contracts shall be made in accordance with the  
24 provisions of Chapter 91 of this title. All contracts let by the board for any goods,  
25 supplies, or materials to be purchased exceeding \$100,000.00 shall require a notice of  
26 bids be advertised twice in the legal organ of the county allowing a reasonable amount  
27 of time for responsive bids to be submitted and shall be subject to this Code section. The  
28 bid of the lowest responsive and responsible bidder for contracts for purchase of any  
29 goods, supplies, or materials shall be accepted unless all bids are rejected because the  
30 bids are too high or the board determines it is in the best interests of the district to reject  
31 all bids. The board may require such bidders to furnish bond with a responsible surety  
32 to be approved by the board. Contracts for the operation, maintenance, and management  
33 of district projects shall contain the following provisions:

34 (A) The contract shall terminate absolutely and without further obligation on the part  
35 of the district at the close of the calendar year in which it was executed and at the close

1 of each succeeding calendar year for which it may be renewed as provided in this Code  
2 section; and

3 (B) The contract may provide for automatic renewal unless positive action is taken by  
4 the district to terminate such contract, and the nature of such action shall be determined  
5 by the district and specified in the contract;

6 (3) To borrow money and issue bonds, bond anticipation notes, certificates, warrants,  
7 notes, or other evidence of indebtedness to fund any project or portion thereof or cost  
8 incident thereto as provided in this chapter; to charge, collect, and enforce fees and other  
9 user charges; to apply for and use grants or loans of money or other property from the  
10 United States, this state, a unit of local government, or any person for any district  
11 purposes and enter into agreements required in connection therewith; and to hold, use,  
12 and dispose of such moneys or property for any district purposes in accordance with the  
13 terms of the gift, grant, loan, or agreement relating thereto. The district may incur debt  
14 without regard to the requirements of Article IX, Section V of the Constitution or any  
15 other provision of law prohibiting or restricting the borrowing of money or the creation  
16 of debt by political subdivisions of this state, which debt may be backed by the full faith,  
17 credit, and taxing power of the district but shall not be an obligation of this state, the local  
18 government or governments that approved the district, or any local or other unit of  
19 government of this state;

20 (4) To adopt resolutions and orders prescribing the powers, duties, and functions of the  
21 officers of the district; the conduct of the business of the district; and the maintenance of  
22 records of the district. The board may also adopt resolutions with respect to any of the  
23 projects of the district and define the area to be included therein. The board may also  
24 adopt resolutions which may be necessary for the conduct of district business;

25 (5) To maintain an office at such place or places as it may designate within the district;

26 (6) To hold, control, and acquire by donation or purchase, or dispose of, any public  
27 easements, dedications to public use, platted reservations for public purposes, or any  
28 other easements, dedications, or reservations for those purposes authorized by this chapter  
29 and to make use of such easements, dedications, or reservations for any of the purposes  
30 authorized by this chapter;

31 (7) To lease as lessor or lessee to or from any person, firm, corporation, association, or  
32 body, public or private, any projects of the type that the district is authorized to undertake  
33 and facilities or property of any nature for the use of the district to carry out any of the  
34 purposes authorized by this chapter;

35 (8) To raise, by user charges or fees authorized by resolution of the board, amounts of  
36 money which are necessary and reasonable for the conduct of district activities and

1 upkeep of district facilities and to enforce their receipt and collection in the manner  
2 prescribed by resolution not inconsistent with law.

3 (A) The board is authorized to prescribe, fix, establish, and collect rates, fees, rentals,  
4 or other charges, and to revise the same from time to time, for the projects furnished by  
5 the district, including, but not limited to, recreational facilities, water management and  
6 control facilities, and water and sewer systems; to recover the costs of making  
7 connection with any district facility or system; and to provide for reasonable penalties  
8 against any user or property for any such rates, fees, rentals, or other charges that are  
9 delinquent.

10 (B) A copy of the schedule or schedules of such rates, fees, rentals, or charges shall be  
11 kept on file in the district office. The rates, fees, rentals, or charges so fixed for any  
12 class of users or property served shall be extended to cover any additional users or  
13 properties thereafter served which shall fall in the same class, without the necessity of  
14 any notice or hearing. Such rates may only be revised by the board.

15 (C) Rates, fees, rentals, and charges shall be just and equitable and uniform for users  
16 of the same class and when appropriate may be based or computed either upon the  
17 amount of service furnished, upon the number of average number of persons residing  
18 or working in or otherwise occupying the premises served, upon any other factor  
19 affecting the use of the facilities furnished, or upon any combination of the foregoing  
20 factors as may be determined by the board on an equitable basis.

21 (D) The rates, fees, rentals, or other charges prescribed shall be such as will produce  
22 revenues, together with any other assessments, taxes, revenues, or funds available or  
23 pledged for such purpose, at least sufficient to provide for following:

- 24 (i) All expenses of, including reserves for, the operation and maintenance of projects;  
25 (ii) Payment when due of all bonds and interest thereon and costs related thereto for  
26 the payment of which revenues are, or shall have been, pledged or encumbered,  
27 including reserves for such purpose; and  
28 (iii) Any other funds which may be required under the resolution or resolutions  
29 authorizing the issuance of bonds pursuant to this chapter.

30 (E) The board shall have the power to enter into contracts for the use of the projects  
31 of the district and with respect to the services and facilities furnished or to be furnished  
32 by the district;

33 (9) To cooperate with, or contract with, governmental agencies as may be necessary,  
34 convenient, incidental, or proper in connection with any of the powers, duties, or  
35 purposes authorized by this chapter;

1 (10) To assess and impose upon lands in the district taxes and assessments as provided  
2 by this chapter in conformity with the requirements of Code Sections 48-5-32 and  
3 48-5-32.1 that are applicable to a levying authority;

4 (11) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or  
5 extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the  
6 following, provided that such systems, facilities, and basic infrastructures shall be built  
7 according to the then-current specifications applicable to or within the jurisdiction or the  
8 service area of the service delivery provider in which such systems, facilities, and basic  
9 infrastructures are to be located, and provided, further, that exercising such powers shall  
10 constitute an essential governmental function for a public purpose:

11 (A) Water management and control facilities for the lands within the district and to  
12 connect some or any of such facilities with roads and bridges;

13 (B) Water supply, sewer, and waste-water management, reclamation, and reuse or any  
14 combination thereof, and to construct and operate connecting, intercepting, or outlet  
15 sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and  
16 under any street, alley, highway, or other public place or ways; and to dispose of any  
17 effluent, residue, or other byproducts of such system or sewer system. Such sewer or  
18 sewer system shall have the same rights, duties, and obligations as publicly owned  
19 treatment works that discharge treated waste water;

20 (C) Bridges or culverts that may be needed across any drain, ditch, canal, floodway,  
21 holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over  
22 levees and embankments; and to construct any and all of such works and improvements  
23 across, through, or over any public right of way, highway, grade, fill, or cut;

24 (D)(i) District roads, sidewalks, bicycle paths, and other pedestrian facilities;

25 (ii) Street lights; and

26 (iii) Buses, trolleys, transit shelters, ridesharing facilities and services, parking  
27 improvements, and related signage;

28 (E) Investigation and remediation costs associated with the cleanup of actual or  
29 perceived environmental contamination within the district under the supervision or  
30 direction of a competent governmental authority, unless the expenditure of investigation  
31 and remediation costs benefit any person who is a landowner within the district and  
32 who caused or contributed to the contamination;

33 (F) Conservation areas, mitigation areas, and wildlife habitat, including the  
34 maintenance of any plant or animal species, and any related interest in real or personal  
35 property, including green spaces and common areas;



(G) Security, including, but not limited to, guardhouses, fences and gates, electronic intrusion detection systems, and patrol cars, when authorized by proper governmental agencies, except that the district may not exercise any police power, but may contract with the appropriate local government agencies for an increased level of such services within the district boundaries;

(H) Indoor and outdoor recreational, cultural, and educational uses; and

(I) Any other project within or outside the boundaries of a district consistent with the local government comprehensive plan;

(12) To finance, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, and maintain additional facilities for the following, provided that such systems, facilities, and basic infrastructures shall be built according to the then-current specifications applicable to or within the jurisdiction or the service area of the service delivery provider in which such systems, facilities, and basic infrastructures are to be located, and provided, further, that exercising such powers shall constitute an essential governmental function for a public purpose:

(A) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment when authorized by the appropriate local government;

(B) School buildings and related structures, which may be leased, sold, or donated for use in the public educational system when authorized by the local school board;

(C) Control and elimination of pests of public health importance; and

(D) Waste collection and disposal;

(13) To adopt and enforce appropriate resolutions in connection with the provision of one or more services through its projects;

(14)(A) To impose and enforce certain deed restrictions pertaining to the use and operation of real property within the district. The district may impose all or certain portions of the deed restrictions that:

(i) Relate to limitations or prohibitions that apply only to external structures and are deemed by the district to be generally beneficial for the district's landowners and for which enforcement by the district is appropriate, as determined by the district's board; or

(ii) Are consistent with the requirements of a development order or regulatory agency permit.

(B) The board may vote to adopt deed restrictions only when all of the following conditions exist:

(i) The district's geographic area contains no homeowners' associations;

(ii) The majority of the board has been elected by electors pursuant to this chapter;  
and

(iii) The declarant or other party establishing such deed restrictions has provided the board with a written agreement that such deed restrictions may be adopted by the district. A memorandum of the agreement shall be recorded in the public records.

(C) Within 60 days after such deed restrictions take effect, the district shall cause to be recorded in the property records in the county in which the district is located the deed restrictions, stating generally what deed restrictions were adopted and where a copy of the deed restrictions may be obtained. Districts may impose fines for violations of such deed restrictions and enforce such deed restrictions and fines through injunctive relief; and

(15) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this chapter, including any power granted by the laws of this state to public or private corporations which is not in conflict with the purposes of the district.

36-93-9.

A district formed under this chapter shall not have the power of eminent domain and nothing in this chapter shall be construed to give a district such power.

36-93-10.

A district may adopt and enforce reasonable rules and regulations to:

- (1) Secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;
- (2) Preserve the sanitary condition of all water controlled by the district;
- (3) Prevent waste or the unauthorized use of water controlled by the district;
- (4) Provide and regulate a safe and adequate freshwater distribution system; and
- (5) Regulate activities on any land or any easement owned or controlled by the district; provided, however, the appropriate local government shall retain all home rule and police powers, including, but not limited to, zoning powers and land use control rights under the laws of this state; and provided, further, that the district shall dedicate a minimum of 20 percent of its area to permanent open space.

1 36-93-11.

2 (a) In addition to the other powers provided for in this chapter, and not in limitation  
3 thereof, the district shall have the power to issue from time to time notes in anticipation of  
4 bonds and to renew from time to time any such notes by the issuance of new notes, whether  
5 the notes to be renewed have or have not matured. The district may issue such bond  
6 anticipation notes only to provide funds which otherwise would be provided by the  
7 issuance of the bonds. Bond anticipation notes may be authorized, sold, executed, and  
8 delivered in the same manner as bonds. As with its bonds, the district may sell notes at  
9 public or private sale. Any resolution or resolutions authorizing notes of the district or any  
10 issue thereof may contain any provisions which the district is authorized to include in any  
11 resolution or resolutions authorizing bonds of the district or any issue thereof and which  
12 the district is authorized to include in any bonds. Bond anticipation notes shall not be  
13 issued in an amount exceeding the par value of the bonds in anticipation of which they are  
14 to be issued.

15 (b) The district may, at any time, obtain loans for other short-term borrowing, in such  
16 amounts and on such terms and conditions as the board may approve for the purpose of  
17 paying any of the expenses of the district or any cost incurred or that may be incurred in  
18 connection with any of the projects of the district and related operation and maintenance  
19 costs of the projects of the district. Such loans shall bear interest as the board may  
20 determine and may be payable from and secured by a pledge of such funds, revenues, taxes,  
21 and assessments as the board may determine.

22 36-93-12.

23 (a) Bonds, notes, or other obligations issued by the district shall be paid from revenues and  
24 other property pledged to pay such bonds, notes, or other obligations. In the event the  
25 district defaults on its obligations, landowners within the district shall only be responsible  
26 for such obligations that are associated with their property and not the obligations of the  
27 district as a whole or the obligations of any other landowner. Landowners of the district  
28 shall have the right to satisfy or make arrangements to satisfy the proportionate share of  
29 obligations related to the district and any related reasonable interest as determined by the  
30 calculation provided in subsection (i) of Code Section 36-93-14 on their property.

31 (b) All bonds, notes, and other obligations of the district shall be authorized by resolution  
32 of its board, such resolution to include a finding that revenues from the project will be  
33 sufficient to repay the bond, note, or other obligation. The board may incur debt for initial  
34 costs upon creation of the district by the appropriate local government and adoption of a  
35 resolution by the board. In the event that a district seeks to finance the construction of

1 additional projects using tax-exempt bonds, the board shall submit a new petition to the  
2 appropriate local government that specifically identifies the projects to be undertaken, the  
3 necessity for the projects, the costs of the projects, and the anticipated need for tax-exempt  
4 bonds as then reasonably estimated by the petitioner, provided that such estimates shall be  
5 submitted in good faith but shall not be binding and may be subject to change. Obligations  
6 from such debt for each landowner within the district shall be limited to the amount  
7 identified in the calculation found in subsection (i) of Code Section 36-93-14.

8 (c) Bonds, notes, or other obligations shall bear such date or dates, shall mature at such  
9 time or times not more than 40 years from their respective dates, shall bear interest at such  
10 rate or rates which may be fixed or may fluctuate or otherwise change from time to time,  
11 may be subject to interest rate hedge arrangements, shall be subject to redemption on such  
12 terms, and shall contain such other terms, provisions, covenants, assignments, and  
13 conditions as the resolution authorizing the issuance of such bonds, notes, or other  
14 obligations may permit or provide. The resolution authorizing the issuance of the bonds  
15 may delegate to such officers charged with the responsibility of issuing such bonds the  
16 authority to set the final terms, conditions, and details thereof, including the interest rate  
17 or rates and maturity, within reasonable parameters established and set forth in such  
18 resolution.

19 (d) The board shall have power from time to time and whenever it deems it expedient to  
20 refund any bonds by the issuance of new bonds, whether or not the bonds to be refunded  
21 have matured. The board may issue bonds partly to refund bonds then outstanding and  
22 partly for any other purpose permitted under this chapter. The refunding bonds may be  
23 exchanged for the bonds to be refunded, with such cash adjustments as may be agreed  
24 upon, or may be sold and the proceeds applied to the purchase or redemption of the bonds  
25 to be refunded.

26 (e) There shall be no limitation upon the interest rates of any maximum interest rate or  
27 rates on any bonds, notes, or other obligations of the district; and the usury laws of this  
28 state shall not apply to bonds, notes, or other obligations of the district.

29 (f) Bonds issued by the district may be in such form, either coupon or fully registered, or  
30 both coupon and fully registered, and may be subject to such exchangeability and  
31 transferability provisions as the bond resolution authorizing the issuance of such bonds or  
32 any indenture or trust agreement may provide.

33 (g) Bonds shall bear a certificate of validation. In the case where property within the  
34 district is within multiple jurisdictions, validation shall occur in the jurisdiction within  
35 which the majority of the property lies. The signature of the clerk of the superior court may  
36 be made on the certificate of validation of such bonds by facsimile or by manual execution,

1 stating the date on which such bonds were validated; and such entry shall be original  
2 evidence in any court of this state.

3 (h) In lieu of specifying the rate or rates of interest which such bonds are to bear and the  
4 principal amount and maturities of such bonds, the notice to the district attorney; the notice  
5 to the public of the time, place, and date of the validation hearing; and the petition and  
6 complaint for validation may state that the bonds when issued will bear interest at a rate not  
7 exceeding a maximum per annum rate of interest which may be fixed or may fluctuate or  
8 otherwise change from time to time, and that the principal amount will not exceed an  
9 amount specified in and the final maturity date will not be later than a date specified in  
10 such notices, petition, and complaint or may state that, in the event the bonds are to bear  
11 different rates of interest for different maturity dates, none of such rates will exceed the  
12 maximum rate so specified which may be fixed or may fluctuate or otherwise change from  
13 time to time; provided, however, that nothing in this Code section shall be construed as  
14 prohibiting or restricting the right of the board to sell such bonds at a discount, even if in  
15 doing so the effective interest cost resulting therefrom would exceed the maximum per  
16 annum interest rate specified in such notices and in the petition and complaint.

17 (i) The terms 'cost' and 'project,' when used in the phrases 'cost of the project' and 'cost of  
18 any project' in bond resolutions of the board, in bonds, notes, or other obligations of the  
19 district, or in notices of proceedings to validate such bonds, notes, or other obligations of  
20 the district, shall have the same meanings as provided in paragraphs (6) and (16) of Code  
21 Section 36-93-2.

22 (j) Pursuant to this chapter, all bonds, notes, and other obligations issued under this chapter  
23 and interest paid and all fees, charges, and other revenues derived by the district from the  
24 projects provided by this chapter are exempt from all taxes of the state or of any political  
25 subdivision, agency, or instrumentality thereof.

26 (k) All bonds issued under this chapter shall be validated pursuant to the procedures set  
27 forth in this title.

28 36-93-13.

29 Any issue of bonds may be secured by a trust agreement by and between the district and  
30 a corporate trustee or trustees, which may be any trust company or bank having the powers  
31 of a trust company within or outside the state. The resolution authorizing the issuance of  
32 the bonds or trust agreement may provide for the pledge of the revenues to be received  
33 from any projects of the district and may contain such provisions for protecting and  
34 enforcing the rights and remedies of the bondholders as the board may approve, including,  
35 without limitation, covenants setting forth the duties of the district in relation to: the

1 acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and  
2 insurance of any projects; the fixing and revising of the rates, fees, and charges; and the  
3 custody, safeguarding, and application of all moneys and for the employment of consulting  
4 engineers in connection with such acquisition, construction, reconstruction, improvement,  
5 maintenance, repair, or operation. It shall be lawful for any bank or trust company within  
6 or outside the state which may act as a depository of the proceeds of bonds or of revenues  
7 to furnish such indemnifying bonds or to pledge such securities as may be required by the  
8 district. The resolution authorizing the issuance of the bonds or trust agreement may set  
9 forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict  
10 the individual right of action by bondholders. The board may provide for the payment of  
11 proceeds of the sale of the bonds and the revenues of any project to such officer, board, or  
12 depository as it may designate for the custody thereof and may provide for the method of  
13 disbursement thereof with such safeguards and restrictions as it may determine. All  
14 expenses incurred in carrying out the provisions of such resolution or trust agreement may  
15 be treated as part of the cost of the project to which such trust agreement pertains.

16 36-93-14.

17 (a) The board shall have the power to levy and assess a district project assessment on all  
18 the real property in the district to construct and maintain projects approved by the  
19 appropriate local government; to pay the principal of, and interest on, any bonds of the  
20 district; and to provide for any sinking or other funds established in connection with any  
21 such bonds. Such district project assessment shall be capped at the amount determined by  
22 the board pursuant to subsection (i) of this Code section. The district project assessment  
23 shall be in addition to all other ad valorem taxes and assessments provided for by law.

24 (b) The board may levy either an ad valorem tax or a maintenance special assessment to  
25 maintain, operate, or preserve the facilities and projects of the district; to pay the principal  
26 of, and interest on, any obligations of the district; and to provide for any sinking or other  
27 funds established in connection with any such obligations. Neither the ad valorem tax for  
28 maintenance and operation nor the maintenance special assessment shall include costs  
29 associated with fee-for-services arrangements, such as payments for utility or water service.  
30 The ad valorem tax for maintenance and operation or the maintenance special assessment  
31 may be evidenced to and certified to the tax authority of the appropriate local government  
32 by the board not later than June 15 of each year and shall be entered by the tax authority  
33 of the appropriate local government on the tax rolls and shall be collected and enforced,  
34 and the proceeds therefrom shall be paid to the district, as provided for in this Code section.  
35 Ad valorem taxes for maintenance and operation and maintenance special assessments shall

1 be a lien on the property against which assessed until paid and shall be enforceable in like  
2 manner as taxes in the appropriate local government. The amount of the ad valorem tax  
3 for maintenance and operation shall be determined and assessed by the board upon such  
4 lands, which may be all of the lands within the district benefited by the ad valorem tax.  
5 The amount of the maintenance special assessment shall be likewise determined and  
6 assessed and shall be apportioned between the benefited lands in proportion to the benefits  
7 received by each tract of land.

8 (c) Any ad valorem tax levied pursuant to this Code section for maintenance and operation  
9 shall not exceed ten mills on the assessed value as determined in the county tax digest.  
10 Any maintenance special assessment levied pursuant to this Code section shall not exceed  
11 \$100.00 per month. Except for specially designated property as provided for in Code  
12 Section 36-93-24, the taxes and assessments levied by the board upon the properties shall  
13 be equitably apportioned among the properties according to the need for infrastructure  
14 created by the degree of density of development within the district and not for the purpose  
15 of providing infrastructure that would primarily benefit the county or municipality as a  
16 whole. Any tax or assessment so levied shall be collected by the appropriate local  
17 government in which the property is located using the methods and procedures as  
18 designated by the tax authority of the appropriate local government. Delinquent taxes and  
19 assessments shall bear the same interest and penalties as ad valorem taxes of the  
20 appropriate local government in which the property is located and may be enforced and  
21 collected in the same manner. The appropriate local government in which the property is  
22 located may retain a fee to reimburse the actual increased costs, if any, of preparing and  
23 mailing notices to collect such taxes and assessments for the board. The remaining  
24 proceeds shall be transmitted by the appropriate local government to the board and shall  
25 be expended by the board only for the purposes authorized in this chapter.

26 (d) The board shall levy the taxes and assessments provided for in this Code section  
27 between January 1 and June 1 of each calendar year and shall notify in writing the  
28 appropriate tax authority of the county in which the property is located by June 15 each  
29 year so the county may include the levy on the county's regular ad valorem tax bills. The  
30 board shall base the taxes on the tax digest approved by the appropriate local government  
31 and the district project assessments owed by each parcel of land as calculated using the  
32 formula in subsection (i) of this Code section.

33 (e) If a parcel of real property is removed from the district or otherwise becomes  
34 nontaxable, it shall continue to bear its tax millage then extant upon such event for bonded  
35 indebtedness of the district then outstanding until any bonded indebtedness then  
36 outstanding is paid or refunded.

(f) Each property for which there is paid taxes, fees, or assessments levied by the board for any project that is the subject of impact fees levied by the appropriate local government shall receive a credit equal to the present value of all such taxes, fees, and assessments toward any impact fee as may be levied by the appropriate local government against said property for system improvements which are in the same category as said public facility in accordance with Chapter 71 of this title, the 'Georgia Development Impact Fee Act.'

(g) All bonds, notes, and other obligations issued according to this chapter and interest paid and all fees, charges, and other revenues derived by the district from the projects provided by this chapter are exempt from all taxes of the state or of any political subdivision, agency, or instrumentality thereof.

(h) With the exception of ad valorem taxes for maintenance and operation and maintenance special assessments, district assessments may be made payable in no more than 40 yearly installments.

(i) Before selling any property to the general public, the board shall determine the projected initial costs to be repaid by landowners through assessments. These initial costs shall be apportioned among the parcels to be sold to the general public, and the amount of such apportionment shall be disclosed as required by this chapter. The board shall calculate the amount of initial costs and any costs for additional projects, if applicable, for which each parcel is to be responsible and make that amount available to the public. Sellers of land within the district shall refer to this calculation for purposes of the disclosures required in this chapter.

36-93-15.

All taxes and assessments of the district provided for in this chapter, together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as a cost in the action brought to enforce payment, shall, from January 1 for each year the property is liable to assessment and until paid, constitute a lien of equal dignity, notwithstanding the provisions of Code Section 48-2-56, with the liens for municipal taxes and other taxes of equal dignity with municipal taxes upon all the lands against which such taxes shall be levied. A sale of any of the real property within the district for state, county, or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district taxes or installments of district taxes, which lien may be enforced against such property as though no such sale thereof had been made. Nothing in this chapter shall affect the rights of lien holders for municipal taxes.



1 36-93-16.

2 (a) The district has the right to:

3 (1) Pay any delinquent state, county, district, municipal, or other tax or assessment upon  
4 lands located wholly or partially within the boundaries of the district; and

5 (2) Redeem or purchase any tax sales certificates issued or sold on account of any state,  
6 county, district, municipal, or other taxes or assessments upon lands located wholly or  
7 partially within the boundaries of the district.

8 (b) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district,  
9 together with all penalties for the default in payment of the same and all costs in collecting  
10 the same and a reasonable attorney's fee, shall constitute a lien in favor of the district of  
11 equal dignity, notwithstanding the provisions of Code Section 48-2-56, with the liens of  
12 municipal taxes and other taxes of equal dignity with municipal taxes upon all the real  
13 property against which the taxes were levied.

14 (c) In any sale of land, the district may certify to the clerk of the superior court of the  
15 county holding such sale the amount of taxes due to the district upon the lands sought to  
16 be sold; and the district shall share in the disbursement of the sales proceeds in accordance  
17 with the provisions of this chapter and other laws of the state.

18 36-93-17.

19 To the full extent permitted by law, the district may require all lands, buildings, premises,  
20 persons, firms, and corporations within the district to use the water management and  
21 control facilities and water and sewer facilities of the district or any other facility or service  
22 of the district when the district relies on the collection of any rates, fees, or charges to  
23 provide said facility or service or to pay principal and interest on debt obligations secured  
24 by a pledge of revenues generated by the collection of such rates, fees, and charges.

25 36-93-18.

26 In the event that any rates, fees, rentals, charges, or delinquent penalties are not paid when  
27 due and are in default for 60 days or more, the unpaid balance thereof and all interest  
28 accrued thereon, together with reasonable attorney's fees and costs, may be recovered by  
29 the district in a civil action.

30 36-93-19.

31 In the event the fees, rentals, or other charges for water and sewer services, or either of  
32 them, are not paid when due, the board shall have the power, under such reasonable rules  
33 and regulations as the board may adopt, to discontinue and shut off both water and sewer

1 services until such fees, rentals, or other charges, including interest, penalties, and charges  
2 for the shutting off and discontinuance and the restoration of such water and sewer services  
3 or both, are fully paid; and, for such purposes, the board may enter on any lands, waters,  
4 or premises of any person, firm, corporation, or body, public or private, within the district  
5 limits. Delinquent fees, rentals, or other charges, together with interest, penalties, and  
6 charges for the shutting off and discontinuance and the restoration of services and facilities  
7 and reasonable attorney's fees and other expenses, may be recovered by the district, which  
8 may also enforce payment of delinquent fees, rentals, or other charges by any other lawful  
9 method of enforcement.

10 36-93-20.

11 The board or any aggrieved person may have recourse to such remedies in law and at equity  
12 as may be necessary to ensure compliance with the provisions of this chapter, including  
13 injunctive relief to enjoin or restrain any person from violating the provisions of this  
14 chapter or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this  
15 chapter. In case any building or structure is erected, constructed, reconstructed, altered,  
16 repaired, converted, or maintained, or any building, structure, land, or water is used, in  
17 violation of this chapter or of any code, order, resolution, or other regulation made by the  
18 board under authority conferred by this chapter or under law, the board, any landowner, any  
19 appropriate local government, or any citizen residing in the district may institute any  
20 appropriate action or proceeding to prevent such unlawful erection, construction,  
21 reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or  
22 prevent such violation; to prevent the occupancy of such building, structure, land, or water;  
23 and to prevent any illegal act, conduct, business, or use in or about such premises, land, or  
24 water.

25 36-93-21.

26 Property, real or personal, that belongs to or is owned by the district, or in which the district  
27 has an ownership interest and is funded by a tax-exempt bond issued by the district, shall  
28 be exempt from levy and sale by virtue of an execution; and no execution or other judicial  
29 process shall issue against such property, nor shall any judgment against the district be a  
30 charge or lien on its property or revenues; however, nothing contained herein shall apply  
31 to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien  
32 or pledge given by the district in connection with any of the bonds or obligations of the  
33 district.

1 36-93-22.

2 (a) The board may petition to contract or expand the boundaries of a district in the  
3 following manner:

4 (1) A petition to contract or expand the boundaries of a district shall comply with the  
5 same requirements and processes as a petition to create a new district pursuant to Code  
6 Section 36-93-3. In addition, if the petitioner seeks to expand the district, the petition  
7 shall describe the proposed timetable for construction of any district projects in the area,  
8 the estimated cost of constructing the proposed projects, and the designation of the future  
9 general distribution, location, and extent of public and private uses of land proposed for  
10 the area by the future land use plan element of the local government comprehensive plan  
11 currently in force. If the petitioner seeks to contract the district, the petition shall describe  
12 what projects are currently provided by the district to the area being removed, and the  
13 designation of the future general distribution, location, and extent of public and private  
14 uses of land proposed for the area by the future land use element of the adopted local  
15 government comprehensive plan; and

16 (2) A public hearing shall be held in the same manner and with the same public notice  
17 as required for creation of a new district pursuant to this chapter. The appropriate local  
18 government shall consider the record of the public hearing and the factors set forth in  
19 Code Section 36-93-3 in making its determination to grant or deny the petition.

20 (b) The district shall remain in existence unless:

21 (1) The district is merged with another district as provided by subsection (c) of this Code  
22 section;

23 (2) All of the specific community development systems, facilities, and services that it is  
24 authorized to perform have been transferred to the service delivery provider; or

25 (3) The district is dissolved as provided by subsection (e) of this Code section.

26 (c) The district may merge with other districts upon a two-thirds' vote of the qualified  
27 electors in each district and filing a petition with the appropriate local government which  
28 shall contain the same information required for a petition for creation pursuant to  
29 subsection (c) of Code Section 36-93-3, as applicable. The new district formed by a  
30 merger involving existing districts shall assume all indebtedness of, and receive title to, all  
31 property owned by the preexisting districts. Prior to filing a petition for merger, the  
32 districts desiring to merge shall enter into a merger agreement and shall provide for the  
33 proper allocation of the indebtedness so assumed and the manner in which the assumed  
34 debt shall be retired.

35 (d) Upon the request of the board of the district, a service delivery provider may adopt a  
36 resolution or ordinance providing for a plan for the transfer of a specific district service or

1 infrastructure from a district to the service delivery provider. The plan must provide for  
2 the assumption and guarantee of the district debt that is related to the service or  
3 infrastructure by the local government.

4 (e)(1) Dissolution of the district may be allowed under the following circumstances:

5 (A) Upon the transfer of all of the community development services of the district to  
6 a service delivery provider, the district may be dissolved in accordance with a plan of  
7 dissolution adopted by the board and filed with the clerk of the superior court;

8 (B) If, within five years after the effective date of the resolution or ordinance  
9 establishing the district, a landowner has not received a building permit authorizing  
10 construction of a building or structure within the district, then the district shall be  
11 automatically dissolved;

12 (C) If a district has no outstanding financial obligations and no operating or  
13 maintenance responsibilities, upon the petition of the district, the district may be  
14 dissolved by a resolution or ordinance of the appropriate local government; or

15 (D) By order of a court of competent jurisdiction.

16 (2) Prior to any dissolution, debts and other obligations of the district must be fully paid  
17 or payment otherwise provided for.

18 36-93-23.

19 (a) The district shall take affirmative steps to provide for the full disclosure of information  
20 relating to the public financing and maintenance of improvements to real property  
21 undertaken by the district. The required information shall be made available to all existing  
22 residents, and to all prospective residents, of the district. The district shall furnish each  
23 developer of a development within the district with sufficient copies of that information to  
24 provide a copy to each prospective purchaser of property in that development; and any  
25 developer of a development within the district, when required by law to provide a public  
26 offering statement, shall include a copy of information relating to the public financing and  
27 maintenance of improvements in the public offering statement.

28 (b) Subsequent to the establishment of a district under this chapter, each contract for the  
29 sale of a parcel of real property, each contract for the sale of a residential unit, and each  
30 lease agreement for the rental of a residential unit within the district shall include,  
31 immediately prior to the space reserved in the contract for the signature of the purchaser,  
32 the following disclosure statement in boldface and conspicuous type which is larger than  
33 the type in the remaining text of the contract: 'THE PROPERTY YOU ARE ABOUT TO  
34 PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE  
35 DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE

1 DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS,  
2 OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. CERTAIN OF  
3 THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF THE DISTRICT  
4 AND THE COSTS OF ADDITIONAL PROJECTS. ALTHOUGH SUBJECT TO SOME  
5 FLUCTUATION, THESE TAXES AND ASSESSMENTS FOR INITIAL COSTS AND  
6 ADDITIONAL PROJECTS SHALL NOT EXCEED \$\_\_\_\_\_ PER YEAR.  
7 ADDITIONAL TAXES AND ASSESSMENTS MAY PAY THE OPERATION AND  
8 MAINTENANCE OF DISTRICT PROJECTS, AND SUCH COSTS ARE CAPPED BY  
9 LAW. DISTRICT TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY  
10 AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL  
11 OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.'

12 (c) The limit on taxes and assessments for initial costs and additional projects shall be  
13 determined as provided for in subsection (i) of Code Section 36-93-14. Any person or  
14 entity who seeks to sell land within the district shall use the amount identified by the board  
15 pursuant to subsection (i) of Code Section 36-93-14 for purposes of making the required  
16 disclosures under this Code section.

17 (d) Within 30 days after the effective date of a resolution or ordinance establishing a  
18 district under this chapter, the district shall cause to be recorded in the property records in  
19 the county in which it is located a 'Notice of Establishment of the \_\_\_\_\_ Infrastructure  
20 Development District.' The notice shall, at a minimum, include the legal description of the  
21 district and a copy of the disclosure statement specified in subsection (b) of this Code  
22 section.

23 36-93-24.

24 (a) A district that is composed of at least 1,500 acres may, within its petition for the  
25 creation of the district pursuant to Code Section 36-93-3, define areas or designate certain  
26 property of the district to pay for improvements, facilities, or services that primarily benefit  
27 that designated area or property and do not generally and directly benefit the district as a  
28 whole.

29 (b) The board shall state in its designation the physical and economic reasons, the  
30 particular diverse local needs, or the comparative potential benefits of the defined areas or  
31 designated property in the district that make it necessary or equitable to levy all or part of  
32 the tax on a defined area or designated property of the district.

33 (c)(1) The board shall adopt a proposed plan that defines the particular area to be taxed  
34 by metes and bounds or designates the property to be served, affected, and taxed.

1 (2) The board shall adopt a proposed plan for improvements in the defined area or to  
2 serve the designated property.

3 (3) The board shall adopt a proposed plan of taxation to apply to the defined area or  
4 designated property that may or may not be in addition to other taxes imposed by the  
5 district on the same area or property.

6 (d) After adoption of the plans as provided for in this Code section, the district, under the  
7 limitations of this Code section, may apply separately, differently, equitably, and  
8 specifically its taxing and assessment powers and lien authority to the defined area or  
9 designated property to provide funds to construct, administer, maintain, and operate  
10 improvements and facilities that primarily benefit the defined area or designated property.

11 (e) After adoption of the plans as provided for in this Code section, the district may issue  
12 its bonds to provide the specific projects included in the plans adopted for the defined area  
13 or to serve the designated property, and shall provide the improvements and facilities.

14 (f) The district may issue bonds that pledge only the faith and credit based on the property  
15 values in the defined area and may not pledge the full faith and credit of the district.

16 (g) In lieu of the general notice required under Code Section 36-93-23, a person who sells  
17 or conveys real property located within the defined area or designated property of the  
18 district shall provide the following prescribed notice, which shall be disclosed in the same  
19 manner as notice required under Code Section 36-93-23: 'THE PROPERTY YOU ARE  
20 ABOUT TO PURCHASE OR LEASE IS WITHIN THE (Name of District)  
21 INFRASTRUCTURE DEVELOPMENT DISTRICT. THE (Name of District)  
22 INFRASTRUCTURE DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES  
23 OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY.  
24 CERTAIN OF THESE TAXES AND ASSESSMENTS PAY THE INITIAL COSTS OF  
25 THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. ALTHOUGH  
26 SUBJECT TO SOME FLUCTUATION, THESE TAXES AND ASSESSMENTS FOR  
27 INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT EXCEED \$ \_\_\_\_\_  
28 PER YEAR. ADDITIONAL TAXES AND ASSESSMENTS PAY THE OPERATION  
29 AND MAINTENANCE COSTS OF DISTRICT PROJECTS, AND SUCH COSTS ARE  
30 CAPPED BY LAW. DISTRICT TAXES AND ASSESSMENTS ARE IN ADDITION TO  
31 COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS  
32 AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

33 'FURTHERMORE, THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE  
34 IS WITHIN A DESIGNATED AREA OF THE (Name of District) INFRASTRUCTURE  
35 DEVELOPMENT DISTRICT AND YOUR LAND WILL BE SUBJECT TO HIGHER

1 TAXES THAN OTHER LAND WITHIN THE DISTRICT. YOUR RATE OF TAXES  
2 WILL BE HIGHER BY \$\_\_\_\_\_ ON EACH \$1,000.00 OF ASSESSED VALUATION  
3 THAN LAND NOT WITHIN THE DESIGNATED AREA.'

4 (h) The limit on taxes and assessments for initial costs and costs for additional projects  
5 shall be determined as provided for in subsection (i) of Code Section 36-93-14. Any  
6 person or entity who seeks to sell land within the district shall use the amount identified by  
7 the board pursuant to subsection (i) of Code Section 36-93-14 for purposes of making the  
8 required disclosures under this Code section.

9 36-93-25.

10 (a) Article 2 of Chapter 70 of this title shall not apply to districts established under this  
11 chapter; provided, however, that a service delivery provider that is the designated provider  
12 of a service for the area in which a district is to be located pursuant to a service delivery  
13 strategy under Article 2 of Chapter 70 of this title shall receive a copy of the petition filed  
14 with the appropriate local government within five days of submission by the petitioner to  
15 the appropriate local government and shall have the right of first refusal to provide the  
16 service to the district. Such right of first refusal shall be exercised within 30 days of receipt  
17 of the petition unless such time is extended by agreement between the appropriate local  
18 government, the service delivery provider, and the petitioner, and such decision shall be  
19 communicated to the appropriate local government no fewer than ten days before its public  
20 hearing on the petition. If the service delivery provider exercises its right to serve the  
21 district, it shall enter into a contract with the district, such contract to include the  
22 requirement that the service delivery provider provide its service within the district in  
23 conformity with a mutually agreed upon timetable of service. A service delivery provider's  
24 requirement that the infrastructure meet the existing standards used within the service area  
25 shall not constitute a refusal to provide service to the district. Likewise, a service delivery  
26 provider's requirement that the district construct, or pay the costs of construction of, any  
27 infrastructure necessary to provide service to the district shall not constitute a refusal to  
28 provide such service. Such construction or costs of construction may include any  
29 infrastructure required to connect district infrastructure to the service delivery provider's  
30 existing infrastructure and the costs of any modification, improvement, or construction of  
31 infrastructure necessary to provide service to the district. The district shall only be required  
32 to construct or pay for construction of infrastructure project costs that are directly  
33 associated with the infrastructure necessary to serve the anticipated usage within the  
34 district.

(b) Water or sewer fees charged to customers located outside the geographic boundaries of a service delivery provider and within the boundaries of a district shall not be arbitrarily higher than the fees charged to customers receiving such service which are located within the geographic boundaries of the service delivery provider.

(c) If a district board disputes the water and sewer rate differentials imposed within the district by the designated service provider, the district board may hold a public hearing for the purpose of reviewing the rate differential. Following the preparation of a rate study by a qualified engineer, the district board may challenge the arbitrary rate differentials on behalf of its residents in a court of competent jurisdiction. Prior to such challenge, the dispute shall be submitted to some form of alternative dispute resolution.

36-93-26.

(a) The Department of Community Affairs shall have the authority to study and review all districts created pursuant to this chapter and shall report its findings to the General Assembly, the Senate Committee on Economic Development, and the House Committee on Economic Development and Tourism by January 31 of each year.

(b) This Code section shall stand repealed on January 31, 2011."

## SECTION 2.

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by striking subsection (a) of Code Section 12-5-30, relating to permits for construction, modification, or operation of facilities which discharge pollutants into waters, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Any person who owns or operates a facility of any type or who desires to erect, modify, alter, or commence operation of a facility of any type which results or will result in the discharge of pollutants from a point source into the waters of the state shall obtain from the director a permit to make such discharge. Any person desiring to erect, modify, alter, or commence operation of a facility which will result in such discharge but which is not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the discharge of same. Any person who is operating a facility which results in such discharge as of July 1, 1974, may continue to make such discharge pending final action by the director on the application for such discharge permit, provided that such application has been filed with the director by September 29, 1974; and provided, further, that such discharge does not present an immediate health hazard to the public. The director, under the conditions he or she prescribes, may require the submission of such plans, specifications, and other information as he or she deems relevant in connection with the



1 issuance of such permits. The director may, after public notice and opportunity for public  
2 hearing, issue a permit which authorizes the person to make such discharge, upon condition  
3 that such discharge meets or will meet, pursuant to any schedule of compliance included  
4 in such permit, all water quality standards, effluent limitations, and all other requirements  
5 established pursuant to this article. The director shall give preference to existing permits  
6 or modification of existing permits in conformity with existing service delivery strategy  
7 agreements required in Chapter 70 of Title 36."

### 8 SECTION 3.

9 Said chapter is further amended by striking subsection (f) of Code Section 12-5-31, relating  
10 to permits for withdrawal, diversion, or impoundment of surface waters, and inserting in lieu  
11 thereof a new subsection (f) to read as follows:

12 "(f) In the event two or more competing applicants or users qualify equally under  
13 subsection (e) of this Code section, the director is authorized to grant permits to applicants  
14 or modify the existing permits of users for use of specified quantities of surface waters on  
15 a prorated or other reasonable basis in those situations where such action is feasible;  
16 provided, however, the director shall give preference to an existing use over an initial  
17 application, including preference to existing permits or modification of existing permits in  
18 conformity with existing service delivery strategy agreements required in Chapter 70 of  
19 Title 36."

### 20 SECTION 4.

21 Said chapter is further amended by striking subsection (b) of Code Section 12-5-96, relating  
22 to permits to withdraw, obtain, or use ground water, and inserting in lieu thereof a new  
23 subsection (b) to read as follows:

24 "(b) When sufficient evidence is provided by the applicant that the water withdrawn or  
25 used from the ground is not consumptively used, a permit therefor shall be issued by the  
26 division without a hearing and without the conditions provided in subsection (c) of this  
27 Code section. Applications for such permits shall set forth such facts as the division shall  
28 deem necessary to enable it to establish and maintain adequate records of all water uses.  
29 The director shall give preference to existing permits or modification of existing permits  
30 in conformity with existing service delivery strategy agreements required in Chapter 70 of  
31 Title 36."

### 32 SECTION 5.

1 This Act shall become effective on January 1, 2007; provided, however, that this Act shall  
2 only become effective on January 1, 2007, upon the ratification of a resolution at the  
3 November 2006 state-wide general election that amends the Constitution so as to authorize  
4 the General Assembly to provide by general law for the creation and comprehensive  
5 regulation of infrastructure development districts. If such resolution is not so ratified, this  
6 Act shall not become effective and shall stand repealed in its entirety on January 1, 2007.

7 **SECTION 6.**

8 All laws and parts of laws in conflict with this Act are repealed.